



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
SAM NUNN  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA GEORGIA 30303-8960

August 17, 2010

Dr. Roy E. Crabtree  
Regional Administrator  
Southeast Regional Office  
National Oceanic and Atmospheric Administration  
263 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701

Subject: EPA NEPA Comments on NOAA FEIS for "Amendment 17A to the Fishery Management Plan for the Snapper Grouper Fishery of South Atlantic Region"; South Atlantic Fishery Management Council; South Atlantic Region; CEQ No. 20100319; ERP No. NOA-E91030-00

Dear Dr. Crabtree:

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's (NOAA) Final Environmental Impact Statement (FEIS) for Amendment 17A prepared by the South Atlantic Fishery Management Council (Council). This comprehensive FEIS proposes the long-term rebuilding of red snapper (*Lutjanus compechanus*) stocks in the South Atlantic Region along coastal South Carolina, Georgia and Florida. EPA previously provided NEPA-review comments on the Draft EIS (DEIS) in a letter dated March 26, 2010.

Overall, EPA continues to support Amendment 17A since South Atlantic red snapper stocks are experiencing overfishing and therefore are in need of additional fishery management and enforcement to end overfishing and return stocks to an Optimum Yield (OY) level. We have concentrated our FEIS review on the NOAA responses to our comments on the DEIS (App. X).<sup>1</sup> We offer the following final comments on several of the NOAA/Council responses.

---

<sup>1</sup> We note that Appendix X and all other appendices (A-Y) were provided to the public in CD format (and on NOAA website) as opposed to a hard copy in order to, we understand, minimize printing. While we agree with streamlining the NEPA process, we recommend that appendices important to the public review such as the Appendix X responses to public and agency comments (as well as Appendix U addressing environmental justice) be provided in hard copy format to account for those concerned citizens that may not have access to a computer, particularly any low-income and/or minority populations which may include affected fishers. Alternatively, such responses could have been incorporated into the FEIS text for easier access rather than in an electronic appendix since, in the case of Appendix X (and U), they were not overly voluminous. Ideally, to help insure good public disclosure, appendices should be limited to reference information, sometimes voluminous, that supplements rather than replaces sections of the main document.

## FEIS Responses to EPA's DEIS Comments

\* Comment 1 (NEPA Process) – We appreciate the discussion on NOAA's rationale for Amendment 17 being split into 17A and 17B. We assume that both documents cross-referenced the rationale and linked these two projects. We are pleased to note that a public hearing was also provided for 17B, even though it was an Environmental Assessment (EA) which, unlike an EIS, does not require a public hearing.

\* Comment 3 (Rebuilding Schedule) – We appreciate the response's thoughtful explanation for selecting a long rebuilding schedule; nevertheless, we note that the selected 35-year schedule is the longest allowed. As such, this would seem to favor the fishers to the maximum extent rather than more of a balance between the resource being restored and the socio-economic impacts of the fishers. Although we defer to NOAA and the Council in this regard, a more balanced recovery plan might be further considered. Similarly, we suggest that adaptive management measures occurring over the recovery period involving reassessments (e.g., length of area closure times) should not overly favor fishers, but should again balance fisher and resource impacts (if not favor resource recovery). However, special considerations may be warranted to minority and/or low-income fishers.

Since red snapper bycatch is apparently an unavoidable issue for ongoing fisheries targeting co-occurring snapper-grouper species, perhaps fishing pressure from these other fisheries could also be reduced to in turn limit the red snapper bycatch. Moreover, since regulatory discards frequently result in eventual mortalities for this species, perhaps such red snapper bycatch could be kept as landings and counted toward the co-occurring species fishery quota to further reduce red snapper bycatch.

\* Comment 4 (Area Closure) – EPA continues to agree with allowing some exceptions to selected fishing for other snapper-grouper species in area closures (if approved by NOAA and the Council) to provide some relief to affected fishers. The use of fishing with black bass pots may be a case in point since the pots apparently do not attract many red snapper bycatch. However, if entrapped, such red snapper bycatch could perhaps be successfully released if the pots are raised slowly to reduce change-in-pressure trauma. However, NOAA's ghost fishing concern, which initially disallowed such an exception, may still be important. The response for Comment 4 does not indicate how ghost fishing aspects of lost pots was resolved. The NOAA Record of Decision (ROD) should address this.

Since spearfishing is so selective, we agree that such gear could be a candidate for another exception to allow some non-red-snapper fishing within closed areas. However, such allowance could still result in the collection of undersized fish or in quota exceedances, as well as possible spearfisher injury. If spearfishing of other snapper-grouper species is allowed in area closures, the ROD should address these possible consequences of such a spearfishing exception.

\* Comment 5 (Circle Hooks) – We continue to support the use of circle hooks to reduce bycatch mortalities where possible. However, in the case of red snapper caught on deep

reefs, regulatory discard mortalities are often related more to change-in-pressure trauma from rapid surfacing rather than hooking injuries. Also, as indicated in this response, certain species, such as yellowtail and mangrove snapper, are not readily caught with circle hooks.

\* Comment 6 (Monitoring Program) – EPA continues to support fishery-independent (scientific) monitoring and fishery-dependent monitoring where fishers work together with researchers. We believe both approaches are useful to ending red snapper overfishing.

\* Comment 7 (Environmental Justice) – This response could have been improved by referencing that the environmental justice (EJ) discussion is found in Appendix U, as opposed to the too generic citing of the “Social Impact Assessment portion of the EIS”. As suggested above, we also offer that Appendix U is short enough to have been included in the FEIS text (main document) for easier access by the public.

Section 7.2.3 in Appendix U addresses EJ considerations. Although well-written, this section does not confirm the presence or absence of EJ fishers potentially affected by the proposed reduction in red snapper fishing associated with Amendment 17A. We realize that 2000 U.S. Census data would not necessarily capture fisher communities (it would instead capture the broader census geographic area such as a block group) and now is also dated. We also agree that all fisher demographics would be affected equally by the proposed Amendment 17A regulations. However, it is unclear if the red snapper fishers constitute a large percentage of minority and/or low-income populations in the red snapper fishery, resulting in potential EJ impacts. While Table 7-1 documents general EJ threshold comparisons, it is not specific to pocket concentrations of fisher communities that may or may not exist for the red snapper fishery.

We note and appreciate that a public hearing was held for this EIS. Such hearings can be useful in collecting EJ comments (since it would reduce red snapper landings to restore the fishery) but are notably dependent on the attendance and participation of affected fishers. To maximize the value of such public hearings, we recommend that they be well advertised through various media, and that they be preceded by lead agency outreach to selected communities to ensure that community or church leaders have coordinated participation with any affected fishers. The NOAA ROD should discuss the level of planning for the public hearing for this EIS. Moreover, if any EJ-related comments were made at the public hearing, the ROD should also address how they will be addressed by NOAA.

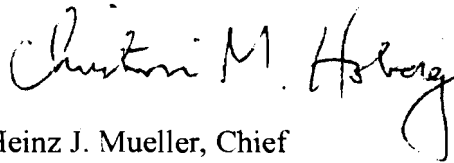
Overall, we recommend that if a long recovery time (if pursued in the ROD) is still not adequate in minimizing fisher societal and economic impacts, additional offsets will be considered by NOAA and the Council for fishers of all demographics, particularly any affected minority and low-income fishers. In contrast, if a shorter recovery time is selected and somewhat greater socio-economic impacts are experienced by fishers of all demographics, that additional offsets will also be considered.

**Other EPA Comments**

Beyond our above comments on the FEIS responses in Appendix X, the ROD should address how the recent oil spill in the Gulf of Mexico could impact Amendments 17A and 17B management measures. Any planned or potential adaptive management measures due to the spill should be discussed. In general, it appears that the oil spill would further impact both fish and fishers – fishers due to area closures and red snapper due to oil environmental effects.

EPA appreciates the opportunity to review the FEIS for Amendment 17A. Should you have questions regarding these comments, feel free to contact Chris Hoberg of my staff at 404/562-9619 or [hoberg.chris@epa.gov](mailto:hoberg.chris@epa.gov).

Sincerely,



Heinz J. Mueller, Chief  
NEPA Program Office  
Office of Policy and Management

cc: Dr. Paul N. Doremus – NEPA Coordinator (NOAA): Silver Spring, MD